HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No. 675 of 2007

Between:

Bikkina Rama Rao and others

… Appellants

And

The Special Deputy Tahsildar (Tribal Welfare),
Kota Ramachandrapuram, West Godavari District
and others

… Respondents

:: J U D G M E N T ::

Counsel for the appellants : Shri D. Prakash Reddy,
Senior Advocate assisted by
Shri N. Nageswara Rao

24th August, 2007

Per G.S. Singhvi, CJ

This is an appeal for setting aside order dated 2-8-2007 passed by the learned Single Judge, whereby he dismissed the writ petition filed by the appellants against orders dated 27-10-2001 and 16-7-2007 passed by Agent to the Government of Andhra Pradesh-cum-District Collector, West Godavari at Eluru (respondent No.3) and Principal Secretary, Tribal and Social Welfare Department, Government of Andhra Pradesh (respondent No.4) respectively under Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 as amended by Regulation I of 1970 (for short, 'the Regulation').

The appellants purchased different parcels of land (total measuring about Acs.60.00) comprised in Survey Nos. 462 and 472 situated at Ganaparvaram Village of Buttaigudem Mandal, West Godavari District through registered sale deeds dated 29-1-

1977. They also obtained possession certificates from the Mandal Revenue Officer. Since the transactions of sale and purchase entered into between the appellants and their vendors were barred by the provisions contained in the Regulation, Special Deputy Collector (Tribal Welfare), Kota Ramachandra Puram, West Godavari District (respondent No.2), vide his order dated 30-4-1992 directed their eviction on the ground of violation of Section 3 (1) (a) of the Regulation. The appeal and revision filed by the appellants against that order were dismissed by respondent Nos. 3 and 4 vide their orders dated 27-10-2001 and 16-7-2007 respectively. The reasons assigned by the two authorities for negating the appellants claim are extracted below.

"**Order dated 27-10-2001 passed by respondent No.3:**

I have gone through the record of the lower court and other material paper available on record. Heard the arguments of the Government Pleader, Eluru. The appellants are non-tribals. The schedule land is lies in Ganapavaram an agency village of Buttaigudem Mandal. The appellants have purchased the scheduled land through a registered sale deeds from another non-tribals detailed below.

S.No.	Date of Registration of Sale Deed	R.S.No.	Extent	Name of the Vendee	Name of the Vendor
1.	29-1-1977	462	6.51	B.V. Rama Rao	B.V. Ratnam
2.	29-1-1977	462	9.80	B.V.Krishna Rao	B.V.Ratnam and his sons
3.	29-1-1977	464/1	4.25	Garapati Papayamma	B.V.Ratnam and his sons
4.	29-1-1977	462	4.00	Smt. M.V. Raghavulu	B.V.Ratnam and his sons
5.	29-1-1977	462	9.20	B. Somanna	B.V.Ratnam and his sons
6.	29-1-1977	472	5.00	B. Sathi Raju	B.V.Ratnam and his sons
7.	29-1-1977	472	3.00 9.60	B. Rama Rao	B.V.Ratnam and his sons
	Total	Acres 51.36			

According to the Sec. 3 (1)(a) of the Regulation 1/59 as amended by regulation 1/70 any sale transaction took place in between non-tribals is null and void. The regulation 1/70 came into force w.e.f. 3-2-1970. It is settled law that the regulation 1/70 is not retrospective effect in operation. In this case, the sale transaction took place in between non-tribals after enactment of regulation 1/70 and hence the said sale transaction is null and void. It is clear violation of the provision of the regulation 1/70."

"**Order dated 16-7-2007 passed by respondent No.4:**

7. Government after perusal of the case records, parawise remarks and the arguments of the counsel for the petitioner observed that the contention of the revision petitioners that the transaction was not hit by land transfer regulation 1/59 as amended by 1/70 is not correct as seen from the registered document executed between the non-tribal vendor and vendee, on 29.1.1997. The chapter III, sec. 54 of transfer of property act, 1881 defines that in case of tangible immovable property of the clause of hundred rupees and upwards, or in the case of reversion or other tangible things can be made only by registered document. In the instant case, the value transfer is Rs. 1,35,000 said to be effected in Sada Agreement dated 20.1.1969 should have been registered and without registered document, any unregistered agreement said to be executed prior to 3.2.1970 would be treated as an after-thought to avoid LTR. When the lands were originally purchased in the year 1969 if they had actually purchased it in 1969. The LTR regulation over rides all other laws including ROR act also and entries in the revenue records do not confer or create any rights over the lands.

8. The Government after careful examination of the above facts and records of the case, finds no reasons to interfere with the orders of the Agent to Government, West Godavari District at Eluru in S.R.A.No. 22/93 dated 27.10.2001 holding that the transfer of immovable property took place between two non-tribals after Regulation 1/70 came into force which is null and void as per sub-section 1 (a) of Section 3 of A.P. Schedule Areas Land Transfer Regulation, 1959 r/w 1/70 is hereby upheld."

The appellants questioned the aforementioned two orders in Writ Petition No.15866 of 2007, but could not persuade the learned Single Judge to entertain their plea that the sale transactions were not in violation of Section 3(1)(a) of the Regulation. The latter dismissed the writ petition by recording the following observations:

"Admittedly the sale deeds in favour of the petitioners were registered on 29.1.1997 after coming into force of Regulation I of 1970 with effect from 03.2.1970. Therefore the sale deeds are absolutely void. When the petitioners claim title over under the sale deeds, they cannot now contend

that transfer in their favour was under lease in 1968 or under agreements of sale in 1969. The Agent to the Government as well as the Government considered this aspect of the matter and correctly came to the conclusion that the transaction between the petitioners and other non-tribals took place after coming into force of the Regulation I of 1970 and therefore it is certainly void."

Shri D. Prakash Reddy, learned Senior Counsel emphasised that the registered sale deeds dated 29-1-1977 through which the appellants purchased different parcels of land were preceded by leases executed in 1968 and agreements of sale executed in 1969 and argued that the transfer of land in favour of his clients is not hit by the provisions contained in Section 3 (1) (a) of the Regulation. He submitted that registration of the sale deeds on 29-1-1977 did not attract the prohibition contained in the Regulation because the transfer had taken place in 1969. Learned counsel strongly relied on order dated 5-1-2006 passed by another learned Single Judge in Writ Petition No. 17318 of 2001, **Kalagara Vighneswararao vs. the Government of Andhra Pradesh and others** and argued that the agreement of sale amounts to transfer of land within the meaning of Section 3 (1) (a) and as the agreements of sale were entered between the appellants and their vendors before the amendment of the Regulation in 1970, the same cannot be treated as void. He then relied on the judgment of the Full Bench of this Court in **Gaddam Narasa Reddy vs. Collector, Adilabad District**[1] and argued that the prohibition contained in Section 3 (1) (a) of the Regulation cannot be applied to the sale transactions of 1969. In support of the last mentioned submission, learned counsel also relied on English translation of some of the documents annexed with the memo of appeal.

We have given serious thought to the arguments of the learned counsel and scanned the record. In our opinion, the orders impugned in the writ petition and the one passed by the learned Single Judge do not suffer from any legal infirmity warranting interference under Clause

15 of the Letters Patent. A careful reading of orders dated 27-10-2001 shows that the so-called agreements of sale allegedly executed in 1969 were not placed before respondent No.3. Therefore, the said respondent did not have the occasion to consider their genuineness. In the revision preferred by them, the appellants did aver that they were in possession and enjoyment of the land even prior to 1970 and that registered sale deeds dated 29-1-1977 were preceded by possessory agreements of sale dated 20-1-1969, but their claim was rejected by respondent No.4 by observing that this plea was an afterthought. The learned Single Judge discarded the appellants plea by observing that the so-called agreements of sale did not create any title in their favour.

In our opinion, the agreements of sale allegedly executed by the vendors in favour of the appellants in 1969 cannot be treated as genuine and bona fide transaction because the sale deeds registered on 29-1-1977 do not contain even a semblance of reference to the agreements of sale. If these documents were really in existence, there could be no reason as to why reference to the same was not made in the sale deeds dated 29-1-1977. Not only this, the plain language of the sale deeds totally belie the appellants claim that they were in possession since 1968 and the agreements of sale were executed in 1969. In paragraphs 3 and 4 of the registered sale deeds, the vendors are shown to have handed over physical possession of the property on 29-1-1977 and declared that the vendees i.e., the appellants will be absolute owners and that all the previous dues will be their (vendors) responsibility. For the sake of reference, the relevant extracts of one such agreement are reproduced below:

"And we have **handed over the physical possession of the property. And from onwards** you (vendee) being the absolute owner over the external and internal treasurement in the Immovable property/schedule property……And we will reduce our rights from now onwards and to include your names.

And from now onwards you are held responsible for payment of Government Revenues, from 1386 fasli onwards, **for any previous dues we will be held responsible for payment of such dues**."

If the appellants were already in possession, there was no occasion for the vendors to hand over physical possession on 29-1-1977 or to take the responsibility to clear the Government Revenue payable up to 29-1-1977.

In view of this conclusion, order dated 5-1-2006 passed by another learned Single Judge in Writ Petition No. 17318 of 2001, **Kalagara Vighneswararao vs. The Government of Andhra Pradesh and others** cannot be made basis for granting relief to the appellants.

No other point has been argued.

In the result, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP No. 1352 of 2007 filed by the appellants for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

August 23, 2007

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[1] AIR 1982 AP 1